

Planning Commission Date: March 22, 2006

Item No. **6.**

## MILPITAS PLANNING COMMISSION AGENDA REPORT

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Category: Public Hearing

Report prepared by: Dennis Carrington

Public Hearing: Yes:   X   No:       

Notices Mailed On: 3-9-06

Published On: 3-10-06

Posted On: 3-10-06

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**TITLE:** USE PERMIT NO. UP2006-2

Proposal: A request for a temporary sales trailer and associated site improvements, including a parking lot and landscaping for the KB Terra Serena podium multi-family sales facility.

Location: East side of South Abel Street immediately west of the O'Toole Elms park, north of Curtis Avenue (APN 86-05-009)

**RECOMMENDATION:** Approve with conditions

Applicant: KB Homes, South Bay, Inc. Attn: Brenda Searle-Sung, 6700 Koll Center Parkway, Suite 200, Pleasanton, CA 94566

Property Owner: KB Homes, South Bay, Inc. Attn: Brenda Searle-Sung, 6700 Koll Center Parkway, Suite 200, Pleasanton, CA 94566

Previous Action(s): Major Tentative Map (MA2003-4), General Plan Amendment (GP2003-1), Zone Change (ZC2003-2), "S" Zone (SZ2003-6), Use Permit (UP2003-26), Environmental Impact Report (EA2003-7), Planned Unit Development (PD2003-1) and temporary sales facility for single-family and town home units (UP2005-18)

Environmental Info: Categorically exempt from CEQA pursuant to Section 15304(e), minor temporary use of land having negligible or no permanent effects on the environment.

General Plan Designation: Multifamily Very High Density

Present Zoning: Multifamily Very High Density (R4)

Existing Land Use: Undeveloped

Agenda Sent To: Applicant/property owner

Attachments: Project plans and Resolution No. 3187

PJ No. 3160

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## **BACKGROUND**

In January 2005, the City approved the KB Homes project on approximately 35 acres for a 683-unit residential development that includes small lot single-family homes, townhomes, condominiums, and public park space. Approvals granted for the this residential development included: General and Specific Plan amendment, Zoning Map Amendment, Vesting Major Tentative Map, Planned Unit Development, Site and Architectural Approval and Use Permit Approval. Subsequent Planning Commission approvals were received on August 24, 2005 for four onsite temporary tract signs and approval of the public park equipment by the City Council on October 18, 2005. On November 9, 2005, the Planning Commission approved Use Permit No. UP2005-18 to allow a temporary sales office trailer and associated site improvements for KB Terra Serena townhouse and single-family model homes on the west side of Abel Street.

### **Site Description**

The project site is the vacant parcel on the east side of S. Abel Street. The project site borders S. Abbott Avenue and Hwy 880 on the west, residential uses to the north, Main Street on the east and Curtis Avenue and Elmwood Correctional facility to the south. Adjacent land uses include industrial and residential uses to the north, commercial and retail services to the east and residential and the Elmwood Correctional facility to the south.

## **THE APPLICATION**

This Use Permit application is submitted pursuant to Section 8.04-7 (Temporary tract offices in the R4 District) and Section 57.02-24 (Conditional Use Permits, temporary uses and building in undeveloped sections of the City) of the Milpitas Zoning Ordinance, which permits temporary uses up to 2 years in undeveloped sections of the City.

### **Project Description**

The applicant requests to construct a temporary sales office trailer and associated 21-space parking area with landscaping for the KB Terra Serena townhouse and single-family model homes. A 24'x 54' sales office trailer is proposed just east of Abel Street between podium buildings two and three. The structure would be temporary and would contain a showroom, two offices, restroom and storage area. The trailer would be accessed by way of a wood entry deck with stairs and an ADA accessible ramp. The trailer, as installed, would be 10'-8" tall and be comprised of a metal fascia and wood siding with windows and two French doors. This sales facility will be used to sell both the single-family and town home units on the west side of Abel Street and the podium units on the east side of Abel Street until the sales facility on Alvarez Court approved last November is constructed. It is estimated that that will occur in two months. This proposed sales facility will be in place for approximately 6-months after which the sales trailer will be removed and the sales facility will be relocated to leased space.

The site improvements associated with the sales office trailer include a temporary 21-space parking proposed just south of the sales office trailer. The area will include landscaping and a portable restroom within a wood enclosure. Temporary fencing, retaining walls, traffic control barriers and movable planters would also be installed.

### **Conformance with the General Plan**

The project conforms to the General Plan in that the use directly relates to Implementing Policy 2.a-1-22 which encourages development of the Midtown area as an attractive and economically vital district that accommodates a mixture of housing within a system of landscaped boulevards, streets and pedestrian/bicycle linkages. The proposed project meets the intent of the Midtown Specific Plan and is part of the home selling process that will facilitate the creation of new homes within the Midtown area. In addition, the project relates to Implementing Policy 2.b-I-3 which provides housing opportunities in Milpitas by meeting the City's regional fair-share housing obligations. The project is part of the larger housing development, which will add 683 new housing units to the city, thus, helping to provide to Milpitas' fair share to the region.

### **Conformance with the Zoning Ordinance**

The proposed project is located in the Multi-Family Very High Density Residential (R4) district. Part of this district's purpose is to "provide for higher-density residential "villages" structured around streets, open spaces, trails...." The project, while not directly a residential use, is occurring to support the forthcoming residential units planned for the site. Pursuant to section 8.04-7 of the zoning ordinance temporary uses such as tract sales offices following review and approval of a use permit by the Planning Commission are permitted.

## **ISSUES**

### **Access**

Vehicular access to the sales office is proposed via a driveway off Abel Street between podium buildings 2 and 3. Pedestrian access will be accommodated with a fully improved sidewalk along the frontage of the sales office.

### **Parking**

The Zoning Ordinance does not set forth any parking standards for temporary uses or model homes. Therefore, staff is recommending that 1 space be provided for each model home and 1 space for each employee. Based on the 14 model homes and a maximum of 4 employees a minimum of 18 parking spaces would be required. The project proposes to construct a parking lot adjacent to the sales office trailer that would contain 21 parking spaces, two of which would be handicap accessible. Staff concludes the 21 spaces in the parking lot would be adequate for the sales office.

### **Elm Park Improvements.**

The sales facility and related improvements are proposed to be located on the eventual location of the Elm Park. Therefore staff *recommends* that a condition of approval be required as follows: "Per approved Development and Disposition Agreement, all park improvements including Elm Park improvements shall be substantially completed prior to October 1, 2007. Therefore the subject temporary improvements shall be removed in time for the construction of park improvements."

#### **Location of sales facility in 100-year flood path.**

The proposed sales facility would be located in a 100-year flood path between podium buildings 2 and 3 (refer to site plan). Therefore staff **recommends** that a condition of approval be required as follows: "Elm Park is in a 100-year flood path therefore, the proposed temporary trailers shall be adequately anchored to resist flotation, collapse and lateral movements per Floodplain Management Regulations. Additionally to keep the flow path of the floodway clear of obstructions, the developer shall comply with following:

- A. No solid skirt around the proposed trailer or solid fencing shall be placed on this site.
- B. If the proposed site is being used for construction staging, all construction materials and equipments shall not be placed prior to April 15 and must be removed before October 15 of this year".

#### **Conformance with CEQA**

The proposed project is categorically exempt from further environmental review pursuant to Class 1, Section 15301 ("Existing Facilities"—"... permitting, ... licensing ... of existing ... private structures ... involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination") of the California Environmental Quality Act (CEQA) Guidelines.

#### **Neighborhood/Community Impact**

The proposed sales office and model home complex use is not expected to have any impact on the neighborhood. The sales office building and associated site improvements are temporary in nature and is a common practice with the sales of any new large residential project. Once the majority of the homes are sold, the sales office and any associated improvements will be removed and replaced with the homes approved in podium buildings 2 and 3, thus, not having any impact on the neighborhood.

Adequate parking will be provided adjacent to the sales office trailer and increases in traffic are not anticipated to be greater than those reviewed and approved in the Environmental Impact Report adopted for this project. There are no odors or noise increases associated with the temporary use. As conditioned, the proposed project is not anticipated to create any significant parking, traffic, odor, noise, or other adverse impacts on the community.

#### **RECOMMENDATION**

Close the Public Hearing. Approve Use Permit No. P-UP2006-2 based on the Findings and Special Conditions of Approval listed below.

## FINDINGS

1. The proposed temporary sales office trailer and associated site improvements are consistent with the City of Milpitas Zoning Ordinance and General Plan in terms of land use for Multi-Family Very High Residential zoning as it is a conditional use in the district.
2. As conditioned, the use will not be detrimental or injurious to the public health, safety, and general welfare to the surrounding community because the use is temporary in nature and no significant impacts to parking, traffic, odor or noise are anticipated.
3. The proposed project is categorically exempt from CEQA pursuant to Section 1304(e) in that it is a minor temporary use of land having negligible or no permanent effects on the environment.

## SPECIAL CONDITIONS

### Planning Division = (P)

1. Use Permit No. UP2006-2 is for a temporary sales offices and associated site improvements for the model home complex for the KB Home Terra Sienna podium multi-family development located on the east side of South Abel Street, north of Curtis Avenue (APN 86-05-009), as depicted on approved plans dated February 21, 2006. This permit shall be valid for a period of up to two years. The temporary improvements shall be removed no later than March 22, 2008 and the permanent buildings and site improvements as approved by the City Council on January 12, 2006 shall be installed. (P)
2. This temporary use permit for the temporary sales office and associated site improvement expires on March 22, 2008. Should any extension of this permit be necessary, an application shall be submitted to the Planning Division no later than February 15, 2008. (P)
3. Any modifications to the conditions of approval require Planning Commission approval of an amendment to this Use Permit and a public hearing. The Planning Division staff may approve minor changes, as per Section 42.10-2 of the Milpitas Zoning Ordinance, to approved plans. (P)
4. Prior to issuance of occupancy, all site improvements indicated on the approved plans including but no limited, parking lot, landscaping, sidewalks, streets and lighting, shall in be installed and to the satisfaction of the Planning Division. (P)
5. Prior to building permit issuance for the model home complex, the applicant shall submit details of the revised temporary overflow parking lot for review and approval. (P)
6. Pursuant to Resolution No. 3187, the applicant shall prominently post a copy of the City's General Plan Map and have a copy of the General Plan available for public review in the sales office trailer. In addition, the applicant shall be required to refer to each purchaser of a home to the General Plan and Map and to the City Planning Division to answer any questions regarding the interpretation of the Plan or Map.
7. The sales office trailer shall be painted to complement the eventual colors of podium buildings 2 and 3. (P)

8. On-site temporary signage associated with the sales office and model homes shall be to the approval of the Planning Division staff under a separate permit. Once approved all temporary signage shall removed upon the removal of the sales office and sale of the model homes. (P)
9. If at the time of application for building permit there is a project job account balance due to the City for recovery of fees, review of permits will not be initiated until the balance is paid in full. (P)
10. This use shall be conducted in compliance with all appropriate local, state, and federal laws and regulations and in conformance with the approved plans. (P)

**Engineering Department = (E)**

11. This approval is subject to all the conditions previously approved by the Planning Commission and City Council relating to General and Specific Plan Amendment No. GP2003-1, Zoning Map Amendment No. ZC2003-2, Vesting Major Tentative Map No. MA2003-4, Planned Unit Development No. PD2003-1, "S" Zone Approval No. SZ2003-6, Use Permit No. UP2003-26 and EIA No. EA2003-7. (E)
12. Per approved Development and Disposition Agreement, all park improvements including Elm Park improvements shall be substantially completed prior to October 1, 2007. Therefore the subject temporary improvements shall be removed in time for the construction of park improvements.(E)
13. Elm Park is in a 100-year flood path therefore, the proposed temporary trailers shall be adequately anchored to resist flotation, collapse and lateral movements per Floodplain Management Regulations. Additionally to keep the flow path of the floodway clear of obstructions, the developer shall comply with following:
  - A. No solid skirt around the proposed trailer or solid fencing shall be placed on this site.
  - B. If the proposed site is being used for construction staging, all construction materials and equipment shall not be placed prior to April 15 and must be removed before October 15 of this year. (E)
14. At the time of building plan check submittal, the developer shall incorporate the changes shown on Engineering Services Exhibit "S"(dated 3/10/2006) in the design plans and submit three sets of civil engineering drawings showing all proposed utilities to the Land Development Engineer for plan check. (E)
15. It is the responsibility of the developer to obtain any necessary encroachment permits from affected agencies and private parties. Copies of these approvals or permits must be submitted to the City of Milpitas Engineering Division. (E)
16. Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to, plan check and inspection deposit. (E)

17. The developer shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hrs prior to start of construction for location of utilities. (E)

**Fire Department = (F)**

18. Fire protection, including fire apparatus access roads and water supplies for fire protection (hydrants) shall be installed and made serviceable prior to and during the time of construction. Section 901.3, California Fire Code (CFC). (F)
19. Fire safety during construction, alteration or demolition of the building shall meet the requirements of Article 87, California Fire Code (CFC). (F)
20. Provide KNOX lock (quantity and location to be determined by the Fire Dept.) for Fire Department access to all exterior doors and gates. Section 902.4, CFC. (F)
21. Portable fire extinguishers shall be installed in occupancies and locations as set forth in the code, California Code of Regulations Title 19, Division 1, and Chapters 1 and 3 and as required by the Milpitas Fire Chief. Section 1002.1 CFC. (F)

**Building Inspection Division**

22. The trailer shall be accessible to people with disabilities as per Title 24. Accessible features shall include parking spaces, paths of travel to accessible entrance, ramps, etc. (B)
23. All primary entrances and required exit doors shall be accessible to people with disabilities as per 2001 CBC, sec.1133B.1.1.1.1. Provide maneuvering clearances at entry door as per 2001 CBC, sec. 1133B.2.4.2.
24. The trailer shall be a State approved coach and provided with approved self-contained electrical power or be connected to an approved power source. (B)
25. The trailer shall be located a reasonable distance to a portable or permanent accessible bathroom facility or have interior accessible bathroom and hooked-up to an approved sanitary system. (B)

1ST CITY REVIEW  
FOR REVIEW & COMMENT  
NOT FOR CONSTRUCTION  
FEBRUARY 23, 2006

REVISIONS	BY



RANDALL PLANNING & DESIGN, INC.  
18 HILLS South Blvd., Suite 200  
Milpitas, California 95034  
Phone: (415) 951-1800  
Fax: (415) 951-1803



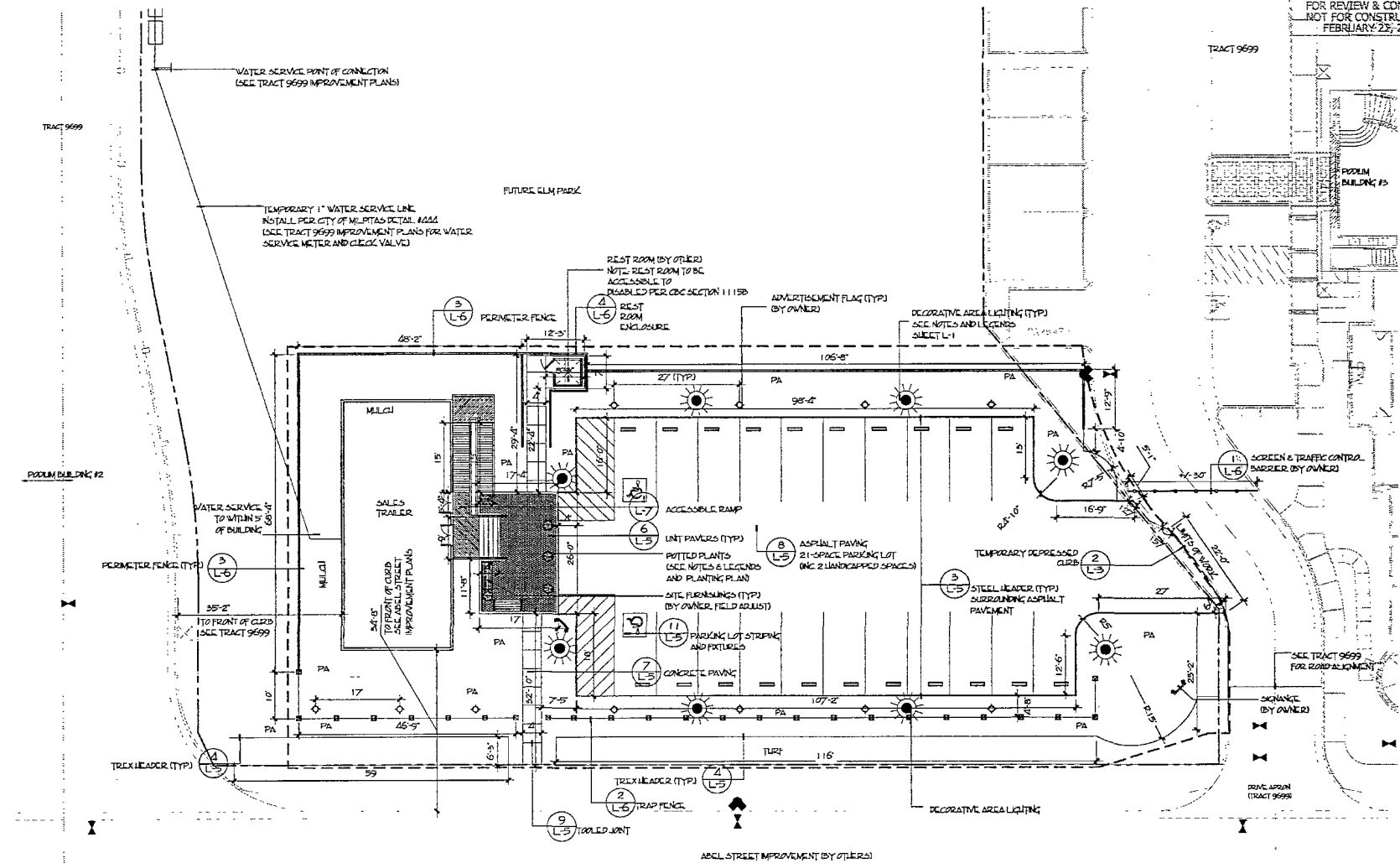
**TERRA SERENA**  
MILPITAS, CALIFORNIA

PODIUM MODEL HOME COMPLEX  
LANDSCAPE PLANS  
LAYOUT PLAN

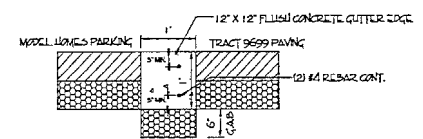


Date: FEBRUARY 23, 2006  
Scale: AS SHOWN  
Drawn: BKM  
Project: #5160  
Drawing: L-3  
Job: GEP-425-227  
Sheet:

L-3  
3 of 15 Sheets

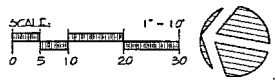


① PODIUM MODEL HOME LAYOUT PLAN  
AREA WITHIN LIMIT OF WORK: 0.42 ACRES



② TEMPORARY DEPRESSIONED CURB  
N.T.S.

GENERAL NOTES:  
1. THE MODEL HOME CONDITIONS ARE TEMPORARY. ALL WORK SHOWN WITHIN THIS SET OF DRAWINGS ARE INTENDED FOR TEMPORARY CONDITIONS ONLY AND TO BE FITTED TO COMPLY WITH CITY PARK.  
2. ALL CONDITIONS ASSOCIATED WITH TRACT 9699 ARE ASSUMED EXISTING FOR THE PURPOSES OF THESE DRAWINGS.





RESOLUTION NO. 3187

A RESOLUTION OF THE MILPITAS CITY COUNCIL  
DIRECTING THE MILPITAS PLANNING COMMISSION  
TO INCLUDE A REQUIREMENT OF POSTING OF  
THE ADOPTED GENERAL PLAN AT MODEL HOME SALES OFFICES

WHEREAS, the City Council is concerned that misinformation is being disseminated by unauthorized people in model home sales offices; and

WHEREAS, the City Council is interested that any new citizen of the community be made aware of the future plans of the physical growth of the City;

NOW, THEREFORE, BE IT RESOLVED that the Milpitas City Council directs the Milpitas Planning Commission to include as a Special Condition of Approval the requirement of posting for public review a copy of the City's adopted General Plan within the sales area of any model home sales office.

BE IT FURTHER RESOLVED that model home sales personnel be required to prominently post a copy of the General Plan for the City of Milpitas and to refer each purchaser of a home to said plan and refer said purchaser to the City Planning Department to answer any questions regarding interpretation of the Plan.

BE IT FURTHER RESOLVED that all existing model home complexes within the corporate boundaries of the City of Milpitas are officially requested to comply with the contents of this resolution.

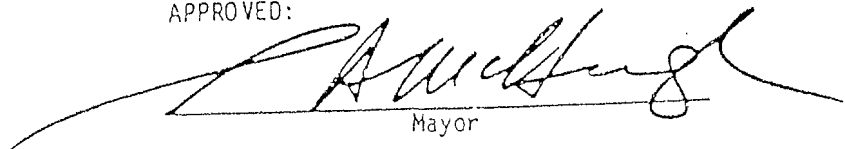
PASSED AND ADOPTED this 3rd day of April, 1979 by the following vote:

AYES: COUNCILMEMBERS: Bargabus, Livengood, Rodgers, McHugh

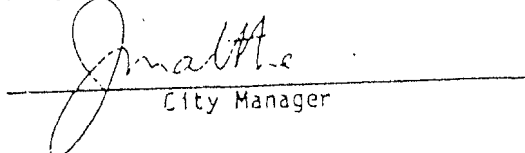
NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Wach

APPROVED:

  
Mayor

ATTEST:

  
City Manager